

REMARKS

The last Office Action dated 4/30/2004 has been carefully considered. In light of the lack of grounds for rejection with respect to the dependent claims 2-10 in previous office actions the Applicant, through this representative, conducted a telephone interview with the Examiner on 9/8/2004. The Applicant proffered four potential additional claims for discussion purposes only, and reviewed with the Examiner the aspects of the invention best reflected in the dependent claims as providing distinguishing advantages over the prior art. The Applicant appreciates the Examiner's guidance in reviewing potential modifications to the independent claims to obviate the earlier grounds for rejections, and is submitting these comments as a summary of the interview with the Examiner.

Accordingly, the Applicant has submitted new claims 11-30, and cancelled claims 1-10, such that the currently pending claims comprise new independent claims 11, 18 and 26, as well as the new dependent claims, which are now 12-17, 19 - 25 and 26-30.

It is respectfully submitted that the new claims 11 to 30 clearly and patentably distinguish over the prior art, since it is believed that the construction defined in these claims differs essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references. Applicant believes that combining the references discussed above and cited in prior office actions would not lead to the claimed invention, in that the present invention does not merely employ the known substitution of equivalents but rather employs a new, non-obvious combination to accomplish the objectives set out in the present application.

Applicant has not inserted or claimed new matters in the amendments made herein, with all modifications finding support in the original specification. Further, with respect to new independent claims 18 and 27, which among other limitations recites "the lateral groove to groove spacing is in the range of about 15 to 56 times the vertical distance from the ridge top to groove bottom", support for such limitation is inherent in the original specification and claimed ranges of the groove spacing and groove to ridge depth.

Specifically the value 15 is the spacing of 2.3 mm divided by the depth of 0.15mm, and the value 56 is the depth of 2.3 mm divided by the spacing of 0.5mm.

Although the applicant is hopeful of the allowance of all the new claims, based on the Examiner's positive impression of the amendments discussed, the applicant wishes to make certain matters of record, should the Examiner apply the same or similar grounds for rejection of the new claims.

Specifically, in the office action of 2/6/2003 the Examiner states that "It would have been obvious to one of ordinary skill in the art to modify the ridge top to groove bottom distance of Cheng as taught by Welhouse, in order to improve the heat transfer and drainage performance of the cooking pan". As the examiner does not cite a references to support the assertion regarding the modification was "in order to improve the heat transfer and drainage performance of the cooking pan", it appears that the examiner is relying on personal knowledge. Accordingly, the applicant respectfully requests, if the examiner chooses to apply the same grounds as a basis for rejecting the revised claims, that the applicant is provident with an affidavit under 37 CFR 1.104(d)(2) wherein the Examiner states such facts are within his personal knowledge, and any basis therefore.

Further, in the office actions of 2/6/2003 and 4/30/2004 the Examiner stated, to support the position that claim 1 is obvious in light of Welhouse and Cheng, that

"since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimal or working ranges involves only routine skill in the art".

The Applicant's representative is not aware of such a holding, and respectfully requests that any future comments that infer binding legal precedent be accompanied by an accurate citation to the legal authority. Accordingly, it should be appreciated that Applicant's cancellation of claims 1-10 is not an admission of agreement with the examiner on the above arguments or that the original claims are anticipated or rendered obvious by the prior art.

Should the Examiner consider necessary or desirable any formal changes

anywhere in the specification, claims and/or drawing, then it is respectfully asked that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. Alternatively should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned.

Respectfully submitted:

By:  on 9/10/2004

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